Discern
Discover
Discourse

The Ombudsman, Hong Kong

Summary of Annual Report 2018

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Performance and Results

Enquiries and Complaints Processing

In 2017/18, we received 4,826 complaints, including 68 secondary cases in topical complaints, and 11,424 enquiries.

Table 1

Enquiries and Complaints Received

Year	Enquiries	Complaints	
		Total	Excluding secondary cases
2013/14	12,767	5,624	5,226
2014/15	12,940	5,339	4,911
2015/16	12,159	5,244	5,031
2016/17	11,564	4,862	4,788
2017/18	11,424	4,826	4,758

Topical Complaints

The number of topical complaints received this year continued to drop, with 68 secondary cases compared to 74 last year. The two relatively significant groups of topical complaints concerned the loss of a computer with personal information of voters by the Registration and Electoral Office (with 25 secondary cases) and a proposed footbridge in a housing estate (with 13 secondary cases).

Complaints Handled

We completed processing 4,770 (85.4%) of all cases received during the year or brought forward from last year. Among these, 2,724 (57.1%) were pursued and concluded by way of inquiry, full investigation or mediation. The rest (2,046, 42.9%) were closed after assessment due to the fact that there was insufficient ground to pursue the complaint, or for jurisdictional or legal restriction reasons.

As in the past, the chief mode of our complaint handling was inquiry, comprising about 84.1% of all cases pursued and concluded. Yet, a significant proportion of the cases were concluded by full investigation (7.2%) and mediation (8.7%) this year.

Outcome of Investigations and Inquiries

This year, we concluded 195 complaints by full investigation, 59 (30.3%) were *substantiated, partially substantiated* or *unsubstantiated but other inadequacies found*. Among the 2,292 inquiry cases concluded, inadequacies or deficiencies were found in 336 (14.7%).

Table 2

Substantiation Rates of Complaints Concluded by Full Investigation

Classification	No. of complaints	Percentage
Substantiated	19	9.8%
Partially substantiated	32	16.4%
Unsubstantiated but other inadequacies found	8	4.1%
Unsubstantiated	135	69.2%
Withdrawn/ discontinued	1	0.5%
Total	**195**	**100.0%**

Direct Investigation

During the year we completed 12 direct investigations on a wide range of systemic issues in public administration:

- Leisure and Cultural Services Department’s Criteria and Procedures for Procuring and Withdrawing Library Materials;
- The Mechanism of Food and Health Bureau and Department of Health for Handling Smoking Offences;
- Food and Environmental Hygiene Department’s Criteria for Publicising List of Traders Involved after Issuing Food Safety Order;
- Social Welfare Department’s Support Services for Persons with or Suspected to Have Mental Health Problems and Their Families/Carers and Neighbours;
- Water Supplies Department’s Maintenance of Government Water Mains and Risk Management;
- Food and Environmental Hygiene Department’s System of Safety Control for Imported Fruits and Vegetables;
- Government’s Regulation of Factory Canteens;

- Lands Department's Enforcement against a Village House with Irregularities;
- The Arrangement Between Housing Department and Water Supplies Department Regarding Payment of Water Charges for Common Areas and Vacant Units in Public Housing Estates;
- Hong Kong Airport Authority's Mechanism for Issuing Airport Restricted Area Permits;
- Government's Control over Fly-tipping of Construction Waste and Landfilling Activities on Private Land; and
- Transport Department's Handling of a Road Section Enclosed and Left Idle for Prolonged Period.

All direct investigations reports are available on our website.

Recommendations

We made 146 recommendations on completion of 195 full investigations and 63 recommendations in 12 direct investigations, giving a total of 209 recommendations. Of these, 174 (83.3%) have been accepted by the organisations for implementation and 35 (16.7%) were under consideration as at 31 March 2018.

Our Pledge Performance

This year we continued to be able to fully comply with our pledged timeframes in arranging talks and answering all enquiries. On acknowledging receipt of complaints, we issued acknowledgement within five working days in 99.2% of all complaints received.

On complaint processing, we concluded 97.3% of the cases falling outside jurisdiction or under restriction within ten working days (not less than 70% under our service pledge). No case exceeded the target timeframe of 15 working days. For other cases, we concluded 88.3% within three months (against our pledge of not less than 60%). We had 0.4% of cases not concluded within our pledge timeframe of six months for reasons such as case complexity, new developments of the case in the mid-stream of the process and delay of organisations under complaint in tendering their replies to us.

Table 3

Processing Time for Cases Outside Jurisdiction or Under Restriction

Year	Response time		
	Within 10 working days (target: >70%)	Within 11-15 working days (target: <30%)	More than 15 working days
2013/14	88.9%	9.7%	1.4%
2014/15	90.9%	8.6%	0.5%
2015/16	98.4%	1.6%	0%
2016/17	97.3%	2.6%	0.1%
2017/18	97.3%	2.7%	0%

Table 4

Processing Time for Other Cases Concluded

Year	Response time		
	Less than 3 months (target: >60%)	Within 3-6 months (target: <40%)	More than 6 months
2013/14	81.7%	17.2%	1.1%
2014/15	86.3%	13.1%	0.6%
2015/16	84.8%	14.7%	0.5%
2016/17	87.6%	12.2%	0.2%
2017/18	88.3%	11.3%	0.4%

Reward and Challenge

Enhancing Quality Administration

Making recommendations to public organisations upon conclusion of our inquiries into complaints is an important tool for us to help improve public administration. Through implementing our recommendations, which often include issuing clearer guidelines, devising or improving mechanisms for better response to public enquiries, closer inter-departmental coordination and tighter monitoring, and strengthening staff training, the public organisations were able to achieve enhanced efficiency, improved client service, more effective regulation, more reasonable decisions, and provision of clearer information to the public.

Mediating Disputes

Among the 2,724 cases pursued and concluded, a record 237 cases (8.7%) were concluded by mediation, approximately 1.8 times of last year's figure of 133 cases (4.6%). More Government departments and public organisations participated in resolving complaints by mediation, with 28 this year compared with 22 last year. Among these, four had not participated in mediation in Ombudsman complaint cases at least for the past ten years. This shows that more organisations have become receptive to this mode of complaint resolution. The subject matters under complaint covered a wide spectrum of livelihood issues, such as public housing estate management, water seepage/dripping, water supply and sewerage problems, road defects and defective vehicle reports, tax matters, postal services, park and tree management, booking and use of recreational and public library facilities and services, noise nuisance, illegal smoking and dog bite complaints.

The average processing time in handling a mediation case was about 15.7 days, with 86.5% of cases completed within a month. Over 50 (21.1%) cases were resolved within a week. Among those complainants who had returned the questionnaire, 87.5% considered the process to have achieved what they wanted, and 96.2% of the complainants and all organisations which had responded to our survey were positive with the work of our mediators.

Apology in Complaint Resolution

We have for the past few years been encouraging public organisations to adopt a more open mind towards making of apologies. This year we are happy to note that the Government has finally enacted the Apology Ordinance. In the complaint cases we handled during the year, it is noted that in the 190 concluded cases where apologies were tendered by the organisations under complaint, 87.4% (166 cases) were given in the course of or after intervention by our Office.

Transparent Government and Access to Information

During the year, we received a total of 91 complaints about access to information, which further exceeded the record figure of 85 last year. Of the 91 cases, 89 were against Government departments or agencies, compared to 72 last year. This shows that public expectation for an open and accountable Government is on the rise. We concluded 71 cases, including 16 carried forward from last year. Non-compliance was found in 30 of them, with 19 having more than one fault found.

This year, we received two complaints against organisations not covered by the Code. Including those brought forward from last year, we concluded four cases, with failings found in three of them.

Challenges from Parties

Re-assessment of Cases and Review of Cases

During the year we received 325 requests for re-assessment, with 143 subsequently re-opened for inquiry. Moreover, we received 49 requests for review. We declined 8 requests and conducted 41 reviews. The original decision was varied in 2 cases after review and upheld for the remaining 39.

Challenging Complainant Behaviours

This year we had complainants who refused to accept our findings or conclusions and kept pressing us for review of their cases without any fresh evidence or supporting arguments. Some complainants would set restrictions on what information in their complaints we could convey to the organisations under complaint and vice versa. There were also complainants who lodged complaints against almost each of our staff who had been in contact with them. In handling these complainant behaviours, the underlying principle is that we will examine all criticisms of our work seriously and spare no effort to improve but at the same time ensure that our staff resources are appropriately used so as to discharge our duties effectively and provide our service to all complainants fairly.

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Office Administration

Staffing

Our strategy of nurturing a solid base of home-grown talents and developing a healthy contingent of investigation officers was working well. During the year, we promoted two investigation staff to the ranks of Investigation Officer and Chief Investigation Officer respectively. At the same time, we would continue to recruit senior staff with requisite experience as necessary to meet operational demands.

Training

This year, we organised a new round of mediation and complaint handling workshop for investigation staff, with a view to strengthening their knowledge of the latest mediation theories and techniques. Upon enactment of the Apology Ordinance, we invited an expert to give a talk to our staff on the implications of this new legislation and its application to our work. We also offered overseas training opportunities to staff to maintain our exposure to best practices in complaint handling in different jurisdictions.

Publicity and External Relations

We continued to promote our work through an array of media and public relations events this year. We again joined hands with Radio Television Hong Kong to produce a new TV drama series "The Ombudsman Special II". The programme, comprising eight 30-minute episodes, was broadcast in April 2017. From these episodes based on actual complaint cases handled by the Office, members of the public can see how our work contributes towards a more open and fair administration. Promotional clips were placed on public transport and social platforms to generate public interest and increase viewership.

The TV commercial with the theme "Say NO to Maladministration" is in its fourth year of running. Feedback from audience is positive as the "Tai-Chi" metaphor helps drive home our message that maladministration should not be tolerated.

This year, we hosted four press conferences to announce our investigation reports. The wide media coverage attracted extensive community attention. We continued to promote our work and engage our stakeholders through media interviews, talks and seminars.

The presentation ceremony of The Ombudsman's Awards was held on 11 October 2017. The Grand Award went to the Hong Kong Monetary Authority, whereas the Planning Department and the Correctional Services Department were the runners-up. 45 public officers received individual awards. To encourage departments to resolve disputes by way of mediation, we plan to introduce a new award relating to mediation next year.

We build good rapport with leading ombudsmen from other parts of the world. In April 2017, we attended the Commonwealth Ombudsman 40th Anniversary Conference in Australia and the International Ombudsman Institute ("IOI") Board of Directors Meeting in Austria. The Ombudsman, as Honorary Secretary of Asian Ombudsman Association, chaired its Board of Directors Meeting, General Assembly and Conference in Pyeongchang, South Korea in May 2017. In the capacity of President of the Australasia and Pacific Region of IOI, The Ombudsman convened a business meeting at its Conference held in November 2017 in Perth to gauge the needs of members.

With the increased public awareness of our role and mission, we place more concern on public engagement in our promotion. We endeavour to communicate with the public, assess the effectiveness of our activities and adjust our programmes in the light of the changing economic and socio-political scene for objective, independent and impartial investigation.

Table 5

Caseload

	Reporting year[1]				
	13/14	**14/15**	**15/16**	**16/17**	**17/18**
Enquiries	**12,767**	**12,940**	**12,159**	**11,564**	**11,424**
Complaints					
(a) For processing	**6,572**	**6,241**	**6,112**	**5,732**	**5,584**
– Received	5,624[398]	5,339[428]	5,244[213]	4,862[74]	4,826[68]
– Brought forward	948	902	868	870	758
(b) Completed	**5,670[367]**	**5,373[472]**	**5,242[224]**	**4,974[74]**	**4,770[61]**
Pursued and concluded	**2,964[48]**	**3,025[203]**	**3,100[205]**	**2,907[40]**	**2,724[52]**
– By inquiry[2]	2,605[36]	2,573[78]	2,740[175]	2,556[16]	2,292[37]
– By full investigation[3]	321[12]	314[125]	226[30]	218[24]	195[15]
– By mediation[4]	38	138	134	133	237
Assessed and closed	**2,706[319]**	**2,348[269]**	**2,142[19]**	**2,067[34]**	**2,046[9]**
– Insufficient grounds to pursue[5]	1,432[192]	1,091[1]	1,187[4]	1,102	1,099
– Legally bound[6]	1,274[127]	1,257[268]	955[15]	965[34]	947[9]
(c) Percentage completed = (b)/(a)	**86.3%**	**86.1%**	**85.8%**	**86.8%**	**85.4%**
(d) Carried forward = (a) – (b)	**902**	**868**	**870**	**758**	**814**
Direct investigations completed	**6**	**7**	**8**	**11**	**12**

Note 1. From 1 April to 31 March of the next year.
Note 2. Pursued under section 11A of The Ombudsman Ordinance, for general cases.
Note 3. Pursued under section 12 of The Ombudsman Ordinance, for complex cases possibly involving serious maladministration, systemic flaws, etc.
Note 4. Pursued under section 11B of The Ombudsman Ordinance, for cases involving no, or only minor, maladministration.
Note 5. Not pursued but closed for reasons such as lack of *prima facie* evidence, organisation concerned is taking action, mere expression of opinion.
Note 6. Outside the Office's jurisdiction or restricted by The Ombudsman Ordinance.
[ ] Number of topical complaints.